

INFORMATION LETTER

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NATIONAL CANNERS ASSOCIATION

For Members
Only

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FIRST INTERPRETATIVE BULLETIN ON WAGE-HOUR LAW ISSUED

Deals Only with General Coverage of the Law— Exemptions to Be Handled Later

First of a series of interpretative bulletins prepared by the office of the general counsel of the Wage and Hour Division, Department of Labor, was issued October 12, giving a general statement as to the coverage of the Fair Labor Standards Act of 1938. The bulletin does not deal with the various important exemptions provided in the statute, some of which, it is stated, are self executing, while others call for definitions and interpretations by the Administrator. As to these, the bulletin states, announcements will be made as soon as possible.

The text of the bulletin as made public by Administrator Andrews follows:

The statute does not confer upon the Administrator any general power to issue rulings including industries within the coverage of the Act, or excluding them. At one stage of the legislative history, a draft of the Act provided that the Administrator should hold a succession of hearings with reference to the various industries, after which hearings, if the facts warranted, he was required to issue an order declaring the industry to be an industry affecting interstate commerce; and by virtue of such order the particular industry was to come within the application of the Act. No such provision was included in the bill as it finally passed. Under the Act, employments are included or excluded by the terms of the statute itself as interpreted by the courts, and not by the force of any administrative action. Interpretations announced by the Administrator, except in certain specific instances where the statute directs the Administrator to make various regulations, definitions and classifications, serve therefore to indicate merely the construction of the law which will guide the Administrator in the performance of his administrative duties, unless and until he is directed otherwise by authoritative ruling of the courts.

Under Sections 6 and 7, the wage and hour provisions are applicable to employees "engaged in commerce or in the production of goods for commerce". "Commerce" is defined as trade, commerce, transportation, transmission, or communication among the several States, or from any State to any place outside thereof—or roughly, "interstate commerce". In the preliminary declaration of policy in Section 2, Congress recited that it sought to remedy certain evils, namely, "labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers", which Congress found "(1) causes commerce and the channels and instrumentalities of commerce to be used to perpetuate such labor conditions among the workers of the several States; (2) burdens commerce and the free flow of goods in commerce; (3) constitutes an unfair method of competition in commerce; (4) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce; and (5) interferes with the orderly and fair marketing of goods in commerce". From

this declared policy of Congress, it is evident that, apart from certain specific exemptions enumerated later in the statute, Congress intended the widest possible application of its regulatory power over interstate commerce; and the Administrator, in interpreting the statute for the purpose of performing his administrative duties, should properly lean toward a broad interpretation of the key words, "engaged in commerce or in the production of goods for commerce."

It is noted that the coverage as described in Section 6 and 7 does not deal in a blanket way with industries as a whole. Thus, in Section 6, it is provided that every employer shall pay the statutory minimum wage to "each of his employees who is engaged in commerce or in the production of goods for commerce." It thus becomes an individual matter as to the nature of the employment of the particular employee. Some employers in a given industry may not be subject to the Act at all; other employers in the industry may be subject to the Act in respect to some of their employees, and not others; still other employers in the industry may be subject to the Act in respect to all their employees, except those specifically exempted by the later provisions of Section 13(a).

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CONFER ON WAGE-HOUR LAW

Canners' Committee Furnishes Data on Industry's Organization and Operating Methods

The special committee authorized by the Administrative Council at its recent meeting in Chicago had an informal conference on October 12 with members of the legal and economic staff of Administrator Elmer F. Andrews of the Wage and Hour Division of the Department of Labor. The purpose of this conference was to furnish the Wage and Hour Division with information on the canning industry's organization, operating methods, sources of material, etc., so that the Division might have a broad factual basis for the formulation of definitions and interpretations of the new law as applied to the canning industry.

The canners' committee included in its membership canners representing the various regions in which the industry operates and also practically all branches of the industry.

The conference was entirely informal in character, and the committee was enabled to present information both by round-the-table discussion and by the submission of exhibits, which were turned over to the staff of the Wage and Hour Division.

As noted elsewhere in the INFORMATION LETTER, the general counsel of the Wage and Hour Division issued his first interpretative bulletin on October 12, this being a general statement as to the coverage of the Fair Labor Standards Act. This first bulletin does not deal with the various important exemptions provided in the law, some of which are self executing while others call for definitions and classifications by the Administrator, concerning which, it was stated, announcements will be made as soon as possible.

Food Standards Committee to Meet

The first meeting of the Food Standards Committee, appointed under the Federal Food, Drug, and Cosmetic Act, will be held in Washington the week of November 7, Joseph Calloway, Jr., secretary of the committee, has announced. The announcement, in part, reads as follows:

"At this meeting, aside from details of organization and adoption of rules for procedure of the committee, the members will give consideration to features upon which standards for the following products should be based:

"Tomato products (juice, puree, paste, and catsup),—identity standards.

"Egg products (liquid, frozen and dried eggs; liquid, frozen and dried egg yolks),—identity standards.

"Canned peaches, canned pears, canned apricots, canned cherries, canned red sour pitted cherries, canned tomatoes, canned peas, canned dry peas,—identity and quality standards.

"Factual and other pertinent information on these schedules will be welcome and will be considered by the committee. Such information may be addressed to the Secretary of the Food Standards Committee, Food and Drug Administration, U. S. Department of Agriculture, Washington, D. C., and should be received not later than November 5, 1938.

"This meeting of the committee is not in the nature of the public hearing to which the Act refers, and for which a minimum thirty days notice is required, but is for the purpose of determining those factors which may be embodied in proposals for a public hearing."

The committee probably will also consider the substance of the McNary-Mapes regulations now in force. The committee will also be glad to receive and consider suggestions for those standards that may be offered it in correspondence. It should be understood that this committee will not conduct

public hearings and desires all suggestions to come to it by letter and not by personal calls.

The tentative standards formulated by the committee will later be subject of public hearings to be announced 30 days in advance by the Secretary of Agriculture.

Members of the committee were listed in INFORMATION LETTERS Nos. 708 and 710.

USDA REORGANIZED

Secretary of Agriculture Regroups Activities Along Four Lines of Work

Reorganization of the Department of Agriculture's administrative machinery to unify four lines of work "which have assumed highest importance in recent years as new responsibilities have been laid on the Department", was announced October 6. The four lines of work, and changes which will be made to unify this work, were stated to be:

"(1) The forming of programs and plans to guide the entire group of agricultural adjustment, conservation and marketing services to farmers and the general public is assigned to the Bureau of Agricultural Economics, which will be charged with Department-wide responsibility." (H. R. Tolley, AAA administrator, leaves his present post to become chief of the Bureau).

"(2) The execution of marketing work is lodged in four units responsible to the Secretary through a Director of Marketing and Regulatory Work." (A. G. Black leaves the post of chief of BAE to become director of these units. Chiefs of the four agencies will be: Jesse W. Tapp, formerly AAA assistant administrator, to have charge of surplus commodity diversion and marketing agreements programs; C. W. Kitchen, formerly assistant chief, BAE to have charge of marketing research, service, and regulatory work; J. W. T.

UNSOLD STOCKS OF CANNED SALMON

Unsold stocks of canned salmon on September 30, 1938, totaled 3,604,556 cases as compared with 3,931,495 cases on September 30, 1937, and 3,898,219 cases on September 15, 1938, according to statistics compiled by the Association of Pacific Fisheries. Figures for September 30, 1938, were based on reports from 79 companies producing an estimated 98 per cent of the 1938 pack. The statistics for September 15, 1938, were compiled from the reports of 78 companies, also packing an estimated 98 per cent of the 1938 pack. Figures for September 30, 1937, were obtained from 90 companies, which packed 96 per cent of the 1937 production of canned salmon. However, the association called attention to the fact that in both 1937 and 1938 neither the complete pack of individual companies reporting nor the total pack was definitely known, inasmuch as packing still was going on in certain localities at the time the report was compiled. The following table gives details regarding pack of stocks of different grades and varieties, and a comparison of stocks on dates mentioned above:

Grades or Varieties	Tails (1 Pound) Cases	Flats (1 Pound) Cases	Halves (8 Dozen) Cases	Total Sept. 30 1938 Cases	Total Sept. 15 1938 Cases	Total Sept. 30 1937 Cases
Chinooks or Kings:						
Fancy Red.....	21,535	15,635	33,168	70,338	76,665	102,083
Standard.....	4,613	6,076	18,558	29,247	18,816	55,471
Pale.....	1,286	578	1,062	2,926	2,496	4,429
White.....	3,294	38	609	3,941	1,517	3,038
Puget Sound Sockeyes.....		3,837	59,584	63,421	73,559	36,519
Alaska Reds.....	1,712,694	47,562	17,871	1,778,127	1,954,901	1,193,742
Cohos, Silvers, Medium Reds.....	122,395	5,390	15,841	143,626	134,799	48,130
Pinks.....	1,253,531	3,948	12,537	1,270,016	1,363,459	2,159,624
Chums.....	234,865		3,307	238,172	268,869	322,317
Bluebacks.....			2,483	2,483	1,999	3,404
Steelheads.....		713	1,546	2,259	1,139	2,738
Total.....	3,354,213	83,777	166,566	3,604,556	3,898,219	3,931,495

Duvel, continuing as chief, Commodity Exchange Administration; and Joshua Bernhardt, continuing in charge of activities under the Sugar Act of 1937.)

"(3) The execution of all physical land-use programs which involve operations by the Government on farm lands is consolidated in the Soil Conservation Service." (All these activities, including retirement and development of submarginal land, will be in charge of H. H. Bennett, chief, Soil Conservation Service.)

"(4) Research work in the field of agricultural and industrial technology is placed under unified direction." (H. G. Knight, Chief of Bureau of Chemistry and Soils, will be in charge of work which is aimed to attack "the problem of widening the uses of farm products". The Bureau of Agricultural Engineering will be merged with the Bureau of Chemistry and Soils.)

For cooperative review of plans and programs throughout the Department, there will be established an Agricultural Program Board. The head of the Office of Land Use Coordination, Milton S. Eisenhower, will serve as chairman, and membership will include the Chief of BAE, heads of the action agencies such as AAA, the Director of Extension, and others. This board will provide "the heads of action agencies full opportunity to review the general plans and programs developed under the leadership of BAE", before they are approved by the Secretary, "especially in the light of administrative feasibility and practicability".

R. M. Evans, now assistant to the Secretary, is made Administrator of the AAA. The Administration's major responsibility, the Secretary stated, "will continue to be the administration of the national conservation and adjustment program, buttressed by an ever-normal granary through commodity loans, marketing quotas, and parity payments when authorized."

Rural Retail Sales by Regions for August

Daily average sales of general merchandise in small towns and rural areas for August, 1938, showed a small improvement in the South, with a gain of 1 per cent over August, 1937, according to estimates of the Bureau of Foreign and Domestic Commerce, based on rural chain store and mail order sales. Practically no change was recorded for the Middle West, while declines of 1 and 3 per cent, respectively, were shown for the Far West and Eastern areas. Rural sales for the country as a whole declined approximately 1 per cent.

August sales, as compared with July of this year, recorded increases of more than the usual seasonal amounts in all regions. The greatest gain was shown for the Far West with the smallest increase taking place in the South.

Winter Pear Marketing Program Approved

Final approval of a marketing agreement program and issuance of an order to regulate the handling in interstate commerce of six varieties of winter pears produced in Oregon, Washington, and California has been announced.

FSCC Authorized to Buy Additional Butter

A 38,000,000-pound increase has been made in the amount of butter which the Federal Surplus Commodities Corporation is authorized to buy during the current fiscal year ending June 30, 1939, it was announced this week. The maximum has been changed from 52,000,000 pounds to 90,000,000 pounds.

Control of Pea Aphid Discussed

A conference under the auspices of the Entomology Department of the University of Wisconsin was held in September at which entomologists from the U. S. Department of Agriculture and from the States, insecticide manufacturers, and canners, discussed and compared their aphid control experience in the 1938 season.

The entomologists reported that in experimental tests good results were obtained with all the materials generally recommended, although with each material there were certain unsatisfactory results. The reasons for this are not yet clear. The discussion again brought out strongly the important influence of temperature and moisture conditions on the treatments now in use. Another point brought out in this conference was in regard to differences in physical condition, fineness, and amount of fibrous material found among rotenone-bearing dust materials supplied by different manufacturers. In addition to satisfactory physical condition, it is important also that the canner know the percentage of rotenone, total extractives, etc., of the product used. Foliage was injured more by some rotenone preparations than by others.

One investigator emphasized the material difference in the degree of control secured early and later in the season. Where the infestation was such that treatment was not required until late in the season, late-season applications of half the amount of dust used earlier in the season resulted in as good control.

Some work was reported on different methods of making counts of aphids, comparing sweeps, counts of individual plants, et cetera. No one method of estimating aphid population was found to be best under all conditions of infestation, as aphids were sometimes concentrated in the tops of the plants and at other times were low on the plant stems.

No conclusive evidence was presented regarding the best diluent to be used, nor the cheapest method of application, although excellent control was obtained by some canners through efficient use of inexpensive equipment. Time of treatment may be very important, as one investigator reported that night application, when dew was heavy, was very effective.

Canned Vegetable Imports into Peru

Chile and the United States are the principal suppliers of canned vegetables to Peru, the office of the American commercial attaché at Lima reports. Imports during the past few years of these two countries were: Chile—1935, 83 metric tons; 1936, 130; and 1937, 168 metric tons. United States—1935, 58; 1936, 70; and 1937, 78 metric tons.

It is reported that green beans, tomatoes, and peas make up the bulk of the Chilean trade in canned vegetables, and offer the greatest competition to the American brands. Chilean canned peas are said to constitute the strongest competitor in this group. Imports in 1937 from the five countries ranking as principal suppliers were: Chile, 168,935 kilos; United States, 78,168 kilos; Italy, 14,844 kilos; Canada, 7,937 kilos; and United Kingdom, 3,036 kilos.

N. C. A. Bulletins Used for Grocery Clerk Training

Establishment of courses in distributive education in high schools throughout the country is providing an opportunity for effective use of various popular publications prepared by

the Association's Division of Home Economics, and the number of requests for these publications is increasing. A quotation from a letter received from Alabama indicates how these courses are being conducted, and the use that is planned for the Association's bulletins:

"We have a training course in distributive education in our high school. Several of our students are specializing in grocery work, and are getting practical experience through the cooperation of our local grocers. We feel that correct merchandise information is a very important part of this study. Your pamphlets on canned foods have been recommended as being most excellent for this purpose.

"We would greatly appreciate it if you would send us any materials which you think might be helpful in turning out well trained grocery men."

Sweet Corn Breeding and Variety Testing

The breeding of improved hybrids adapted to the region where the inbreds are produced is being carried on at a number of experiment stations. In Indiana, Glenn M. Smith, employed jointly by the Purdue Station and the U. S. Department of Agriculture, is continuing his breeding program for early yellow hybrids resistant to bacterial wilt. He is also continuing the production of P. 39 and P. 51, the inbred parents of Golden Cross Bantam, so that plant breeders, especially those in the seed trade, may have authentic foundation stocks of these inbreds. Mr. Smith is also continuing the highly valuable annual comparisons of Golden Cross strains submitted by cooperating seedsmen.

At the Wisconsin Experiment Station, Dr. Neal, with the cooperation of the Columbus Foods Corporation and the American Can Company, has made a comprehensive series of variety comparisons and sweet corn canning tests. Hybrids sold in Wisconsin were collected from canners' deliveries and compared at Columbus for type and canning quality. Hybrid and other varieties submitted by seedsmen were likewise compared, the tests including samples of practically all sources of Golden Cross Bantam sold in Wisconsin.

Conference by the Director of the Association's Raw Products Bureau with Dr. Neal and Secretary Verhulst recently, in Wisconsin, indicated that the results of this season's work would be presented to the Wisconsin Canners Association as soon as practicable, probably in connection with the next canners' school at the University of Wisconsin.

Institutional Recipe Booklet Exhibited

Feature of the Home Economics Division's exhibit at the annual meeting of the American Dietetic Association held in Milwaukee, October 9 to 14, was the Division's new institutional recipe booklet, "Canned Foods Recipes for Fifty". This is the first time the Division has exhibited at the Dietetic Association convention.

The exhibit afforded opportunity for Miss Atwater to talk with women directing food services. She reports that the recipe booklet was enthusiastically received by those in attendance, who are representatives of the hospital dietetic field, school cafeterias, and directors of college cafeterias and residence halls serving large groups. About 900 attended the convention.

PRODUCTION INDICATIONS

Agriculture Bureau Reports on Tomatoes, Beets, Lima Beans, Cabbage, and Pimientos

Reports issued by the Bureau of Agricultural Economics on October 12 indicate that the 1938 production of tomatoes for manufacture will be 1,499,400 tons, or 24 per cent less than in 1937; green lima bean production will be 27,330 tons, or 20 per cent more than in 1937; production of beets for canning will be 80,830 tons, as compared with 62,560 tons in 1937; kraut cabbage production will be 258,600 tons, as compared with 153,200 tons in 1937; and pimiento production will be 24,950 tons, as compared with 19,030 in 1937.

The following tables give the acreages and indicated production figures by States for these crops:

State	Tomatoes Acreage		Production	
	Harvested 1937	Planted 1938	1937	Indicated 1938
	Acres	Acres	Tons	Tons
New York.....	20,400	17,300	142,800	148,800
New Jersey.....	35,300	30,000	137,700	123,000
Pennsylvania.....	15,400	17,200	66,200	82,600
Ohio.....	21,000	22,500	69,300	146,200
Indiana.....	80,700	70,200	427,700	245,700
Illinois.....	9,000	8,800	44,100	32,600
Michigan.....	6,100	6,500	20,700	35,100
Iowa.....	5,100	5,400	30,100	20,000
Missouri.....	14,200	16,100	32,700	22,500
Delaware.....	13,000	9,400	42,900	23,500
Maryland.....	61,000	52,800	176,900	142,600
Virginia.....	25,200	22,000	65,500	55,000
Kentucky.....	3,900	4,300	14,400	9,900
Tennessee.....	9,200	8,900	22,100	16,900
Arkansas.....	14,300	19,300	34,300	34,700
Colorado.....	4,200	3,900	23,100	17,900
Utah.....	6,400	4,800	54,400	41,300
California.....	83,030	43,890	498,200	219,400
Other States*.....	23,070	27,760	70,700	81,700
Total.....	450,500	391,050	1,973,800	1,499,400

* "Other States" include: Alabama, Connecticut, Florida, Georgia, Idaho, Kansas, Louisiana, Minnesota, Mississippi, Montana, Nebraska, New Mexico, North Carolina, Oklahoma, Oregon, South Carolina, Texas, Washington, West Virginia, and Wisconsin.

State	Green Lima Beans Acreage		Production	
	Harvested 1937	Planted 1938	1937	Indicated 1938
	Acres	Acres	Tons	Tons
New Jersey.....	10,200	12,000	5,760	7,200
Delaware.....	10,100	10,800	5,810	5,620
Maryland.....	3,100	3,300	1,430	1,550
Virginia.....	6,000	7,000	3,300	3,150
Michigan.....	3,300	3,950	1,570	2,880
Wisconsin.....	1,900	2,000	770	1,100
Other States*.....	8,300	11,750	4,200	5,830
Total.....	42,900	50,800	22,840	27,330

* "Other States" include: Colorado, Georgia, Illinois, Indiana, Louisiana, Minnesota, New York, Ohio, Oregon, Pennsylvania, South Carolina, Tennessee, Utah and Washington.

State	Beets Acreage		Production	
	Harvested	Planted	1937	1938
	Acres	Acres	Tons	Tons
New York.....	4,000	3,800	20,800	23,900
New Jersey.....	1,050	930	5,400	6,700
Indiana.....	240	400	800	1,500
Michigan.....	970	1,540	4,800	7,200
Wisconsin.....	3,300	4,460	15,800	31,200
Oregon.....	600	280	5,000	1,200
Other States*....	1,990	2,110	9,960	9,130
Total.....	12,150	13,520	62,560	80,830

* "Other States" include: California, Colorado, Georgia, Illinois, Iowa, Louisiana, Maine, Maryland, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Utah, Virginia and Washington.

State	Kraut Cabbage Acreage		Production	
	Harvested	Planted	1937	1938
	Acres	Acres	Tons	Tons
New York.....	8,600	8,550	54,200	111,200
Ohio.....	1,800	2,260	10,300	17,600
Indiana.....	1,350	1,600	8,600	12,800
Illinois.....	590	600	3,800	5,200
Michigan.....	1,400	1,700	7,300	16,700
Wisconsin.....	6,700	7,100	35,500	68,900
Minnesota.....	210	240	900	2,000
Colorado.....	340	350	3,400	4,300
Washington.....	500	450	6,700	4,100
Other States*....	3,550	2,150	22,500	15,800
Total.....	25,040	25,000	153,200	258,600

* "Other States" include: Iowa, Maryland, New Jersey, North Carolina, Oregon, Pennsylvania, Tennessee, Texas, Utah, and Virginia.

Lima Bean Breeding and Variety Trials

At the Maryland Experiment Station, Dr. Mahoney, in cooperation with canners, is taking records and making comparisons of yield, season, and other characteristics of a number of strains and newly-introduced varieties of limas. These include several Henderson Bush types; Maryland Thick-Seeded, which is to be released next season; Illinois Baby Potato and Illinois Large Pod, developed by Mr. Huelsen of the Illinois Station; and Baby Fordhook, developed by Dr. Magruder of the U. S. Department of Agriculture.

At the Illinois Experiment Station Mr. Huelsen is continuing his work on breeding of lima varieties, the principal object being to develop sorts that will set pods and produce a satisfactory yield under Illinois climatic conditions and superior to Henderson Bush limas in quality. In addition to the varieties already released to the trade by Mr. Huelsen, he has several more new ones under test and several hundred progenies of crosses, principally between Henderson Bush and Fordhook. The immediate task is to judge and discard a large percentage of these progenies, saving only those showing the most promise for further selection and testing. This work at Illinois University was studied recently by the Director of the Raw Products Bureau, in company with interested lima bean canners.

Fruits and Vegetables in Cold Storage

There was a continued decrease during September in stocks of frozen fruits, the combined reduction for "quick-frozen" and "cold-packed" products amounting to 4,156,000 pounds, according to the Bureau of Agricultural Economics. The total holdings on October 1 amounted to 147,247,000 pounds, of which 31,825,000 were reported as "quick-frozen" and 115,422,000 pounds as "cold-packed". Of these items, 1,484,000 pounds of "quick-freeze" were not classified according to variety and 30,952,000 pounds of "cold-packed" were unclassified.

Frozen vegetable stocks increased by 7,887,000 pounds during September. The largest increase among the various items was in lima beans, amounting to 3,929,000 pounds. October 1 stocks of all varieties were 69,239,000 pounds compared with 61,352,000 on September 1, 1938, and 26,690,000 pounds on hand October 1, 1937. Of the total amount of quick-frozen vegetables reported, 7,879,000 pounds were unclassified.

Commodity	Sept. 1, 1938 Thousand pounds	Oct. 1, 1938 Thousand pounds
Fruits, quick freeze processed:		
Blackberries.....	1,007	954
Blueberries.....	762	988
Cherries.....	5,581	5,280
Logan and similar berries.....	915	994
Raspberries.....	3,738	3,325
Strawberries.....	12,654	13,056
Other fruits.....	2,100	5,744
Classification not reported.....	3,899	1,484
Total.....	30,656	31,825
Fruits, cold packed and preserved:		
Blackberries.....	4,820	4,523
Blueberries.....	3,970	4,403
Cherries.....	22,299	20,591
Logan and similar berries.....	2,936	2,791
Raspberries.....	9,442	9,409
Strawberries.....	31,984	29,802
Other fruits.....	16,307	12,951
Classification not reported.....	28,989	30,952
Total.....	120,747	115,422
Vegetables, quick freeze processed:		
Asparagus.....	4,277	4,125
Beans, lima.....	9,676	13,605
Beans, snap.....	5,426	5,548
Broccoli, green.....	626	793
Corn, sweet.....	3,863	6,941
Peas, green.....	27,715	26,679
Spinach.....	2,157	1,947
Other vegetables.....	2,207	1,722
Classification not reported.....	5,405	7,879
Total.....	61,352	69,239

Postal Service To Observe Parcel Post Month

Establishment 25 years ago of parcel post service, and its related features insurance and COD services, will be commemorated next month. The Postmaster General has named November as National Parcel Post Month. Businessmen are being urged to cooperate with local postmasters in observing this month.

FIRST INTERPRETATIVE BULLETIN ON WAGE-HOUR LAW ISSUED

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The first category of workers included,—those "engaged in (interstate) commerce" applies, typically but not exclusively, to employees in the telephone, telegraph, radio and transportation industries since these industries serve as the actual instrumentalities and channels of interstate commerce. Employees who are an essential part of the stream of interstate commerce are also included in the phrase "engaged in commerce"; for example,—employees of a warehouse whose storage facilities are used in the interstate distribution of goods.

The second category of workers included,—those engaged "in the production of goods for (interstate) commerce", applies, typically, but not exclusively, to that large group of employees engaged in manufacturing, processing, or distributing plants, a part of whose goods moves in commerce out of the State in which the plant is located. This is not limited merely to employees who are engaged in actual physical work on the product itself, because by express definition in Section 3 (j) an employee is deemed to have been engaged "in the production of goods, if such employee was employed in producing, manufacturing, mining, handling, transporting, or in any other manner working on such goods, or in any process or occupation necessary to the production thereof, in any State." Therefore, the benefits of the statute are extended to such employees as maintenance workers, watchmen, clerks, stenographers, messengers, all of whom must be considered as engaged in processes or occupations "necessary to the production" of the goods. Enterprises cannot operate without employees of these kinds. If they were not doing work "necessary to the production" of the goods they would not be on the payroll. Significantly, it is provided in Section 15 (b) that "proof that any employee was employed in any place of employment where goods shipped or sold in commerce were produced, within ninety days prior to the removal of the goods from such place of employment, shall be prima facie evidence that such employee was engaged in the production of such goods." Hence, except for the special categories of employees within the exemptions of Section 13, all the employees, in a place of employment where goods shipped or sold in interstate commerce were produced, are included in the coverage, unless the employer maintains the burden of establishing, as to particular employees, that their functions are so definitely segregated that they do not contribute to the production of the goods for interstate commerce as these terms are broadly defined in the Act.

The Act does not cover plants where the employees work on raw materials derived from within the State and where none of the product of the plant moves in interstate commerce. This is true, even though the product so manufactured and sold locally comes in competition with similar products which have been manufactured elsewhere and have been moved in interstate commerce. Provisions designed to include such local industries appeared in various drafts of the bill, but were stricken out and not included in the bill as it finally passed.

Since the Act contains no prescription as to the place where the employee must work, it is evident that employees otherwise coming within the terms of the Act, are entitled to its benefits whether they perform their work at home, in the factory, or elsewhere.

The Act is not limited to employees working on an hourly wage. The requirement of Section 6 as to minimum wages is that the employee must be paid at the rate of not less

than 25 cents an hour (the rate is stepped up in succeeding years). This does not mean that employees cannot be paid on a piece-work basis after October 24; it merely means that whatever the basis on which the workers are paid, whether it be monthly, weekly, or on a piece-work basis, they must receive at least the equivalent of the minimum hourly rate. Rules and regulations to be prescribed by the Administrator will provide for the keeping of records in such form as to enable compensation on a piece-work basis to be translated into terms of an hourly rate.

This bulletin does not deal with the various important exemptions provided in the statute. Some of these exemptions are self-executing; others call for definitions and classifications by the Administrator, as to which announcements will be made as soon as possible.

Direct Seeding of Tomatoes

The practice of sowing tomato seed directly in the field (direct seeding), as contrasted with the use of transplants, has increased in the past few years, according to the October 1, 1938, issue of the *Plant Disease Reporter*, published by the U. S. Department of Agriculture. In connection with this practice, the question frequently is asked as to the amount of disease on such fields as compared with those set with transplants. The *Plant Disease Reporter* says:

"Based on limited observations in Indiana and in the Hicksville section of Ohio, the following diseases have been found in direct-seeded fields in sufficient quantity to be of economic importance: anthracnose, Septoria leaf-spot, and early blight. A considerable quantity of leaf mold was found in one field at Hicksville. According to the grower no transplants had been used and the land had not been in tomatoes for five years. At time of sowing the seed had been treated with dry copper oxide. All the fields in the immediate vicinity were direct-seeded and an accurate comparison could not be made as to the relative severity of these diseases on fields planted by the two methods.

"The date of planting seems to be a close relationship to the amount of defoliation. Late-planted fields have less defoliation, but this appears to be related to the amount of fruit set and its degree of maturity. In Indiana where comparisons have been possible between portions of fields which have been direct-seeded and portions set with plants, no obvious difference in amount of defoliation was evident."

Vegetables Grown in Field Tests

A large proportion of the varieties of vegetables of importance in New York State have been grown for comparison in replicated field tests by Dr. Work at Cornell University and the results exhibited at the Vegetable Variety Field Day on September 19th. Many varieties included several strains as grown by different seedsmen.

Samples of beets, carrots and other vegetables, taken from deliveries made to canners and from the packet trade, were grown by Mr. Munn at Geneva, N. Y., who is in charge of the official seed testing for the State. Strains and varieties were identified by labels showing the name of the seedsmen (furnishing the seed and the canner by whom it was submitted. At the field day at Geneva it was stated informally to the Director of the Association's Raw Products Bureau that the field tests of canners' seed deliveries, accompanied by names of seedsmen, had been extremely helpful in improving the quality of seed sold canners in New York State.

Cuban Production of Canned Tomatoes and Puree

The production of tomato puree and canned tomatoes in Cuba has increased to such an extent in the past 10 years that it now is not only sufficient to supply the demand but, according to the trade, the capacity of the industry is in excess of the market's requirements, the office of the American commercial attaché at Habana reports. About 12 firms, several of which have modern equipment, are engaged at this time in the packing of tomato products in Cuba, and competition is exceedingly keen.

Production of tomato products consists mainly of canned tomatoes and tomato puree. In keeping with the heavier demand, the output of puree is much larger than that of canned tomatoes. Both are packed in $\frac{1}{8}$, $\frac{1}{4}$, and 1 kilogram tins (gross weight), but the $\frac{1}{4}$ kilo (about 7 oz.) tin is by far the most popular.

Two local packers have begun to pack tomato juice and ketchup. Consumer preference, however, appears to be for imported ketchup. Local production of these items is believed to be still relatively small.

Catch of Pilchards Increases

The catch of pilchards along the Pacific coast from the beginning of the season on August 1 to September 20 this year has been almost three times as much as that of the corresponding period of last year, according to figures released October 13 by the U. S. Bureau of Fisheries. Already this season fishermen of Washington, Oregon, and California have removed over 230,000,000 pounds of pilchards to be canned or reduced into oil and fish meal. The season has just begun and will last through February in California.

Advisory Committees on 1940 Census

Prominent leaders, both inside and outside governmental departments, will be named by Secretary of Commerce Roper early in November as members of special committees to advise the Census Bureau concerning data to be gathered in the Census of 1940.

Record Grapefruit Production Indicated

Total grapefruit production for the 1938-39 marketing season, as indicated by conditions on October 1, is placed by the Crop Reporting Board of the Bureau of Agricultural Economics at 40,720,000 boxes. This is the largest crop of record and is 32 per cent above the 1937-38 record crop of 30,878,000 boxes. Production in 1936-37 totaled 30,440,000 boxes, whereas average annual production during the 10-year period, 1927-36, amounted to only 16,772,000 boxes.

Miss Atwater to Speak to Students

Home economics students at the University of Minnesota, at Stout Institute, Menomonie, Wisconsin, and at Rockford College, Rockford, Illinois, will hear Miss Ruth Atwater of the Association's Home Economics Division during the week of October 17.

During the past week, while enroute to the annual meeting of the American Dietetic Association at Milwaukee, Miss Atwater attended the meeting of the American Restaurant Association in Chicago, and also spoke to dietitians in the training class at Michael Reese hospital at Chicago.

Certified Coal-Tar Colors

The Federal Food, Drug and Cosmetic Act passed by Congress in June, 1938, becoming effective for the most part one year later, requires that none but certified dyes be used in foods, drugs, or cosmetics after June 25, 1939. Such dyes must be certified by the American manufacturer or by an authorized American agent of a foreign manufacturer. Under date of October 6, 1938, the Food and Drug Administration sent a circular letter to manufacturers and dealers in coal-tar dyes giving them the list of colors that will be permitted in the beginning of the enforcement of the Act after being properly certified.

This circular letter also gives the information needed by manufacturers and dealers to make application for certification, and states that such application accompanied by standards must be made by October 20 if the dyes in which they are interested are to be placed on the first list set up for certification. After these dyes are certified they will be available to manufacturers of foods, drugs, and cosmetics through the usual dealers.

Fruit and Vegetable Market Competition

Carlot Shipments as Reported by the Bureau of Agricultural Economics, Department of Agriculture

VEGETABLES	Week ending—			Season total to—	
	Oct. 8 1937	Oct. 8 1938	Oct. 1 1938	Oct. 8 1937	Oct. 8 1938
Beans, snap and lima	36	23	4	8,201	8,158
Tomatoes.....	530	617	722	22,066	32,693
Green peas.....	124	116	117	6,868	5,949
Spinach.....	5	48	50	8,276	6,753
Others:					
Domestic, competing directly....	2,167	2,305	2,563	137,993	130,406
Imports, competing indirectly....	81	73	78	335	447
FRUITS					
Citrus, domestic....	1,413	2,840	2,434	140,593	173,484
Imports.....	22	8	6	71	74
Others, domestic....	5,422	4,565	964	63,034	58,967

Cuban Winter Vegetable Prospects

Cuban plantings of tomatoes, potatoes, peppers, eggplant, and cucumbers are expected to be below last year, according to the American consul at Habana. The lima bean crop, however, may be as large as last winter. The early tomato crop is expected to be about the same as the past season although the late tomato crop prospects are below last year.

Acres in tomatoes this year will be approximately 20 per cent less than in 1937. While heavy rains during early October are said to have destroyed seed beds and substantial areas of transplanted fields in some sections, it is generally concluded that if conditions are favorable henceforth the early tomato crop available for export from November to January may be fully as large as last winter (873,000 lugs). First shipments are expected to move to market shortly after the first of November. Present indications are that the crop of late tomatoes, chiefly grown in Santa Clara Province, will be somewhat less than last winter and that total exports to American markets for the crop-year (November to April) will amount to about 1,200,000 lugs, as compared with 1,433,000 lugs during the last crop-year.

Red Pitted Cherry Stocks and Shipments

Stocks of canned red pitted cherries in canners' hands on October 1, according to figures compiled by the Association's Division of Statistics, amounted to 1,149,450 cases, of which 538,727 were No. 2's, 594,833 No. 10's, and 15,890 miscellaneous sizes. Shipments from July to October 1 totaled 753,533 cases including 334,587 No. 2's, 384,441 No. 10's, and 34,505 miscellaneous sizes. These figures are based on reports from 86 of the 93 canners and estimates for the other 7 canners.

On October 1 the stocks of No. 2's were 68,262 cases more than on the corresponding date last year, and the stocks of No. 10's were 85,161 cases less.

The following table shows stocks sold but not shipped and unsold stocks on October 1, and the shipments during September by regions:

	N. Y., Pa.	Mich., Wis., Ohio	Western States	Total
Cases	Cases	Cases	Cases	
Stocks, total.....	161,512	753,891	234,047	1,149,450
Sold, not shipped...	75,004	169,441	94,048	338,493
Unsold.....	86,508	584,450	139,999	810,957
Shipments, September	43,992	48,832	49,483	142,307

Reports Advances in Pineapple Industry

The pineapple industry in Hawaii is making long strides in overtaking the sugar industry as the first-rank commercial endeavor of the Territory, according to the annual report of Governor Joseph B. Poindexter to the Secretary of the Interior.

Value of the shipments of canned pineapple and pineapple juice increased by approximately \$4,000,000 each in 1937, while the value of sugar exports decreased by approximately the same amount. The total value of shipments of pineapple was \$59,395,090 in 1937, while in 1936 it was \$51,452,483; the value of the 1937 sugar shipments was \$63,575,478 as compared to \$67,975,548 in 1936.

Increase in the pineapple trade has been accompanied by great advances in agricultural technique and canning practices in the industry, through concentration of activities in plantation and cannery units, and, the report asserts, living and working conditions in both fields and factories have reached an exceptionally high level.

"Although prices of pineapple products were reduced approximately 10 per cent, the high wages paid to workers in the industry have been maintained and the narrowed margin for profit met by more economical production," Governor Poindexter said.

The industry gives continuous employment to approximately 14,000 persons, and during the summer harvest season this number is increased to about 35,000 workers.

The report, which is for the fiscal year ended June 30, 1938, will not be available in published form until late in December or the first part of January.

Frozen Pineapple Production in Cuba

Production of quick frozen pineapple was begun in Cuba during the present year, according to the American commercial attache at Habana. Only one firm has thus far engaged

in this business and its activities this year have been largely in the nature of an experiment conducted on a commercial scale.

During the current season, the local company produced 250,000 pounds of frozen fruit under the "Z" Pack Process. Of these, 75,200 pounds were sliced pineapple in individual retail containers, 73,200 pounds were slices in hotel or institutional packages, and 101,600 pounds consisted of crushed pineapple.

A round, cellophane-lined container is used for the individual container or retail package which contains 6 slices with a net weight of 12 ounces. These are packed 12 each in shipping cartons, making the total net contents 9 pounds of sliced pineapple per carton.

The hotel or institutional container consists of a machine-sealed paraffined paper bag containing 60 slices with a net weight of 7½ pounds. The bag is placed in a paraffined cardboard box and these boxes are packed in cardboard shipping containers containing 5 boxes each with a total net weight of 37½ pounds.

The crushed pineapple is packed in sealed paraffined paper bags each containing 5 pounds of crushed fruit. After freezing, the fruit in these bags takes the form of a slab about 1½ inches thick, 8 inches wide and 9 inches long. These "slabs" are packed two each in paraffined cardboard boxes, five of which make up the contents of the cardboard shipping box containing 50 pounds of frozen crushed pineapple.

This year's production of quick frozen fresh pineapple will be marketed during the fall by the New York offices of the local firm, through which all sales will be made. No estimates as to the 1939 pack are, as yet, available, but it is expected that it will exceed that of this year.

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